FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.888 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mrs.Mallika A.Ingale for the applicants.

Mr.Dnyaneshwar Deshmukh for respondent no.2.

Mr.Rajesh More, APP for the State.

Coram : R.S.Mohite,J

Date : 21.3.2006.

PC

1. Heard both sides. Rule. By consent, rule made returnable forthwith.

2. This is an application for quashing the proceedings in C.C.No.96/P/2003 pending in the Court of Metropolitan Magistrate, 26th Court, Borivali, Bombay. The case in question is a police case where charge-sheet has been filed by the police alleging an offence under Section 498-A of IPC. The dispute in question is

principally a matrimonial dispute. The present applicants who are the husband and his relatives are the six accused in the criminal case. It appears from the application that the parties have settled their dispute. The husband i.e. applicant no.1 has filed a suit for divorce in the Family Court and in pursuance of the settlement, decree for divorce has been passed by the Family Court on 31.1.2006. As a part of the consent terms, an amount of Rs.7,00,000/- has already been deposited in the Family Court and the receipt indicating the deposit is enclosed alongwith this application. Respondent no.2 wife Mrs.Zarna Prem Liya has filed an affidavit-in-reply agreeing to the quashing of the said case. Both parties placed reliance on the judgment of the Apex Court in the case of **B.S.Joshi & Ors. Vs. State of Haryana, reported in 2004(1) Bom. C.R.(Cri.) 93.**

In the said case the Apex Court has quashed the FIR under Section 498-A and held that non exercise of inherent powers to quash proceedings to meet ends of justice would prevent women from settling earlier, which is not the object of said provision of IPC.

3. It may be stated that respondent no.2-wife is present in person and she also states before the Court that she has no objection if the criminal case is quashed. In the circumstances, rule is made absolute in terms of prayer clause-(ii). Needless to say that respondent no.2 will be at liberty to withdraw the amount of Rs.7,00,000/- which has been deposited in the Family Court.

(R.S.Mohite,J)